

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

RICHARD A. DAVIDSON,

Petitioner,

v.

**CASE NO. 2:18-CV-00495
CHIEF JUDGE ALGENON L. MARBLEY
Magistrate Judge Elizabeth P. Deavers**

**WARDEN, WARREN
CORRECTIONAL INSTITUTION,**

Respondent.

ORDER

On May 17, 2021, the Court issued an Opinion and Order denying Petitioner's Motion for Relief from Judgment, Motion to Amend the Motion for Relief from Judgment, and Motion to take Judicial Notice (ECF Nos. 45, 47, 48.) (ECF No. 52.). Petitioner has filed a Motion for a Certificate of Appealability and Motion for Leave to Appeal *in forma pauperis*. (ECF Nos. 58, 60.)

The United States Court of Appeals for the Sixth Circuit will not entertain an appeal from the denial of a Rule 60(b) motion unless the Petitioner first obtains a certificate of appealability. *Johnson v. Bell*, 605 F.3d 333, 339 (6th Cir. 2010). To obtain a certificate of appealability, the Petitioner must make “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). “The petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong.” *Miller-El v. Cockrell*, 537 U.S. 322, 338 (2003) (citing *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)). “Thus, in determining whether to grant a COA in the Rule 60(b) context, this court asks ‘whether a reasonable jurist could conclude that the District Court abused its discretion in declining to reopen the judgment.’” *Lomax*

v. Larose, No. 18-4217, 2019 WL 2447061, at *2 (6th Cir. 2019) (citing *Buck v. Davis*, -- U.S. --, --, 137 S.Ct. 759, 777 (2017)).

The Court is not persuaded that Petitioner can meet this standard here or that a reasonable jurist could conclude that the Court abused its discretion in declining to grant Petitioner's motion. Therefore, Petitioner's Motion for a Certificate of Appealability (ECF No. 58) is **DENIED**.

The Court certifies that the appeal would not be in good faith. Petitioner's Motion for Leave to Appeal *in forma pauperis* (ECF No. 60) is **DENIED**.

IT IS SO ORDERED.



ALGENON L. MARBLEY
UNITED STATES DISTRICT JUDGE

DATED: December 9, 2021